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Details

File #: 2021-8564

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Body: [City Council](#)

On agenda: 1/19/2021

Title: Adoption of Resolution Approving Tentative Map Tract 8534 and Density Bonus Application PLN19-0448 to Subdivide a 1.29-Acre Property into Twelve Lots Located at 2607 to 2619 Santa Clara Avenue and 1514 to 1518 Broadway. (Planning, Building and Transportation 481001)

Attachments: 1. [Exhibit 1 - Density Bonus Application](#), 2. [Exhibit 2 - Tentative Map Tract 8534](#), 3. [Resolution](#)

Text

Title

Adoption of Resolution Approving Tentative Map Tract 8534 and Density Bonus Application PLN19-0448 to Subdivide a 1.29-Acre Property into Twelve Lots Located at 2607 to 2619 Santa Clara Avenue and 1514 to 1518 Broadway. (Planning, Building and Transportation 481001)

Body

To: Honorable Mayor and Members of the City Council

EXECUTIVE SUMMARY

On April 27, 2020, the Planning Board held a public hearing to review the initial plan for the property, which included a Tentative Map and Development Plan to create 15 new parcels (a parcel for each existing building and four new parcels for four new detached single family homes on the area currently occupied by two tennis courts and a basketball court). Based upon the Planning Board's comments, the applicant chose to redesign their project.

On October 5, 2020, the applicant Branagh Land Inc. submitted their revised design, which included a Tentative Map, Development Plan and Density Bonus Application to subdivide the property to place each existing building on a separate parcel and create a new parcel to accommodate two townhome buildings with nine new residential units and a shared parking garage on the area currently occupied by the tennis courts and basketball court. The Density Bonus Application is included as Exhibit 1, and the Tentative Map is included as Exhibit 2. The applicant will request Design Review approval for the three new buildings and the final landscape details at a future date. No physical changes are proposed to the existing residential buildings.

The project qualifies for a density bonus, one incentive/concession, and unlimited waivers under State Density Bonus Law, Government Code section 65915, and is a residential project that is governed by the Housing Accountability Act, Government Code section 65589.5 (HAA). On November 23, 2020 the Planning Board approved the Development Plan and Density Bonus Application (Resolution No. PB-20-25) and recommended that the City Council approve the Tentative Map (Resolution No. PB-20-26) on a vote of 6-1.

Staff is recommending that the City Council approve the Tentative Map and Density Bonus application.

BACKGROUND

The 1.29-acre property located at the corner of Broadway and Santa Clara Avenue (2607 - 2619 Santa Clara Avenue & 1514 - 1518 Broadway) is within the R-5-PD and R-4-PD zoning districts and is designated as Medium Density Residential in the General Plan.

The property is currently occupied by 11 residential buildings with 22 dwelling units (5 single-family dwellings, 3 duplex buildings, 1 triplex building, and 2 four-plex buildings). The 22 units each have one (1) off-street parking space. The property also includes two tennis courts and a basketball court. The six existing multi-family buildings on the property have minimal to no side and rear yards, but they do have access to the tennis courts and the basketball court. Only three of the existing single-family homes have rear yards.

DISCUSSION

Because this project proposes to develop residential housing, the Housing Accountability Act applies to this project. Under the HAA, the City of Alameda (City) may not deny or reduce the density of a project, such as the proposed project, that complies with objective general plan, zoning, and subdivision standards unless the project presents a "specific, adverse impact" to public health and safety that can't be mitigated in any other way. (See Gov. Code § 65589.5(j); *Honchariuv. County of Stanislaus* (2011) 200 Cal.App.4th 1066.) Each of the entitlements requested here is governed by the HAA. The receipt of a density bonus does not constitute a valid basis on which to find a proposed housing development project inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision under the HAA.

Tentative Map. In April, the Planning Board suggested that the applicant reconsider their plan to construct four detached single family homes on the property. The revised plan consolidates the four lots previously proposed for the four detached single family homes into a single parcel to accommodate two townhome condominium buildings and a shared parking garage. Together, the two townhome buildings will provide nine units instead of four units. The Tentative Map (Exhibit 2) proposes to subdivide the property into 12 residential lots to allow for 31 residential units (22 existing units and 9 new units), including two very low-income affordable units. The proposed lot lines for the existing buildings are drawn to reflect the existing conditions for the existing buildings and the typical lot sizes and configurations in the immediate surrounding neighborhood.

The nine townhomes will be developed as a condominium complex governed by a Homeowners Association (HOA). The 11 existing residential buildings will each be located on individual legal parcels and will not be part of the HOA.

Density Bonus Application. Pursuant to the R-4-PD and R-5-PD Zoning Designations, the 1.29 acre site allows for 21 units per acre for a total base density of 28 units. Pursuant to State Density Bonus Law (Gov. Code section 65915 et seq.) and Alameda Municipal Code (AMC) section 30-17 Density Bonus Ordinance, because the applicant proposes that 7% of the 28 units (i.e., two units) will be available to very low-income households, the project qualifies for a 25% density bonus or 7 "bonus" units, for a total of 35 residential units on the 1.29 acre site. One unit within each existing building on Lot 9 and Lot 11 will be deed restricted as affordable to very low-income households. The applicant is entitled to construct 35 units on the site but proposes to construct 9 additional units for a total of 31 units on the site.

Under State law, a unit restricted to very low-income households is also by definition a unit that qualifies as a moderate income unit. Therefore, by providing two very low income units, the applicant has met the City's Inclusionary Housing Ordinance requirement (AMC section 30-16.4) for a single moderate unit.

Under State Density Bonus Law, the applicant qualifies for one concession/incentive (i.e., a reduction in site development standards or modifications of zoning requirements that result in identifiable and actual cost reductions to provide for affordable housing costs). See Government Code Section 65915(d)(2). The City is required to grant the concession or incentive proposed by the applicant unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law. Government Code Section 65915(d)(1).

The applicant is requesting a concession from the City's Universal Design Ordinance, to waive the requirement that 30% of the new units satisfy the Universal Design requirements set forth in AMC section 30-18.4(b). The applicant's Density Bonus Application states that the concession or incentive results in actual and identifiable cost reductions to provide for affordable housing costs.

Although the applicant is able to meet the 100% visitability requirement, they are not able to meet the 30% universal design requirement that requires that three of the nine units also provide an accessible route to an accessible bathroom, an accessible common use room, an accessible bedroom, an accessible kitchen, accessible common or private open space; accessible laundry facility, and adaptable internal stairs. To do so in a townhome building would require installation of an elevator.

In addition to concessions or incentives, if any other City development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the developer may propose to have those standards waived or reduced (Government Code Section 65915(e)). The City is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives, unless granting the waiver or reduction would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. *Id.* The waiver or reduction of a development standard does not count as an incentive or concession, and there is no limit on the number of development standard waivers that may be requested or granted. *Id.*

The applicant is requesting waivers from the AMC prohibition on multifamily housing (AMC §§ 30-50, 30-53), off-street parking requirements (AMC § 30-7), front, rear, and side yard setback requirements (AMC §§ 30-4.4, 30-4.5), open space requirements (AMC §§ 30-4.4, 30-4.5, 30-5.12), and minimum lot size and width requirements (AMC § 30-4.4, 30-4.5), all of which are development standards in the AMC that would otherwise physically preclude the project at the permitted density.

Multifamily Housing and Related Density Limitation Waiver. City Charter Article 26 and AMC sections 30-50 and 30-53 prohibit construction of multifamily housing in Alameda and limits the density of housing to one housing unit per 2,000 square feet of land. It is not physically possible to fit the nine new units on the property as conforming single-family or duplex units in conformance with City Charter Article 26 or AMC sections 30-50 and 30-53. The proposed waiver allows for construction of a four-unit multifamily building and a five-unit multifamily building. The request for a waiver from the multifamily prohibition would not result in any specific, adverse health or safety impacts, or impacts to the physical environment. Additionally, consistent with Government Code section 65915(e), the City may not apply any development standard that will have the effect of physically precluding the construction of a development at the permitted densities or with the required concessions or incentives. The permitted density, pre-bonus, is 28 units. State density bonus law permits 7 additional units, regardless of contrary local density limitations. The applicant instead proposes to construct 3 more units than the permitted density allows, which is authorized by State law and could not be denied despite this number exceeding the one housing unit per 2,000 square feet of land limitation set forth in Charter section 26-3.

Parking Waiver. The revised plan maintains one off-street parking space for each of the existing 22 residential units, which is the current condition, by maintaining 15 uncovered parking spaces on site, and relocating 7 parking spaces to the proposed shared garage. For the nine new townhomes, the project proposes one surface ADA parking space and 11 parking spaces within the shared garage. The new garage structure will accommodate 18 automobiles with the use of mechanical lifts to be constructed in the southwest corner of Lot 12. The structure will house a mechanical parking lift system that is four cars wide, two cars deep, and three cars high. The parking structure will be approximately 20 - 25 feet tall, 39 feet wide and 39 feet deep. Users of the system will have dedicated platforms for their cars, which can be called for access by key fob remotes or hard wired controls at ground level. Platforms will also be able to accommodate future electric vehicle chargers. The final architectural materials and roof design will be specified as part of the design review application for the project.

AMC section 30-7 requires two (2) off-street parking spaces or 62 spaces for 31 housing units. It is not physically possible to fit the nine new units and 62 parking spaces on the property in conformance with AMC section 30-7. The applicant is proposing to provide 33 parking spaces for the 31 units by maintaining 1 off-street parking space for each existing unit and providing 1.2 off-street parking spaces for each of the 9 new townhome units, slightly more than the current 1:1 parking ratio for the existing 22 residential units on the property. The waiver would not result in any specific, adverse health or safety impacts, or impacts to the physical environment.

Front Yard Setback Waivers. AMC sections 30-4.4 and 30-4.5 require 20 foot front yard setbacks for all development. As shown on the Tentative Map, due to existing conditions, none of the proposed lots for the existing 11 buildings provide a 20 foot front yard setback. The front yard setbacks for the existing buildings range from 5 feet to 15 feet. The three new buildings would not front onto a public street. The applicant requests a waiver of the front yard setback requirements because the front yard setback requirement would physically preclude the project from developing at the allowed density. The waiver would not result in any specific, adverse health and safety impacts, or impacts to the physical environment.

Rear Yard Setback Waivers. AMC sections 30-4.4 and 30-4.5 require 20 foot rear yard setbacks for all development. The Tentative Map provides rear yard setbacks of 20 feet for three of the existing residential buildings. The rear property lines for the existing buildings reflect the location of existing fence lines. The new townhomes would have 11-foot rear yard setbacks. The applicant requests a waiver of the rear yard setback requirements because the rear yard setback requirement would physically preclude the project from developing at the allowed density. The waiver from the rear yard setback standard would not result in any specific, adverse public health or safety impact, or impacts to the physical environment.

Side Yard Setback Waivers. AMC sections 30-4.4 and 30-4.5 require 5 foot side yard setbacks. The Tentative Map provides side yard setbacks that range between 1 foot and 5 feet from the side property lines. As shown on the plans, the new property lines and "no build" easements have been placed to ensure compliance with California Building Code fire and life safety requirements for a minimum distance between buildings. The applicant requests a waiver of the side yard setback requirements because the side yard setback requirement would physically preclude the project from developing at the allowed density. The waivers are necessary to create the necessary lots for each of the existing buildings and to accommodate the additional nine units. The plan has been reviewed by the Building and Fire Department to ensure that it conforms to all life safety requirements. The waiver from the side yard setback standard would not result in any specific, adverse public health or safety impact, or impacts to the physical environment.

Open Space Waiver. AMC sections 30-4.4, 30-4.5, and 30-5.12 require 4,000 square feet of open space for the 20 units in the R-5 district (200 square feet per unit) and 2,400 square feet for the six units in the R-4 district (400 square feet per unit.) The five single family homes on Lots 4, 5, 6, 7, and 8 contain private back yards on individual lots and are not included in the open space calculations.

In the revised site plan, the common open space area has been consolidated into two large areas for a total of 4,630 square feet of common open space. One area is located within a large courtyard between the two new townhome buildings and a second larger common space is located in the southeastern corner of Lot 12. The 9 new townhome units and the 17 existing units in the multifamily buildings will have access to this common open space through an access easement.

Although the applicant is able to provide 6,778 square feet of usable open space which includes 4,630 square feet of common open space, the applicant requests a waiver for the open space requirements because the private open space requirements that meet the dimension and setback requirements of the AMC would physically preclude the project from developing at the allowed density. The private open space is required to provide a 5 foot side yard setback, a 10 foot rear yard setback, and have a minimum width of 10 feet. Because of these dimension requirements the applicant is unable to physically fit private open space in the development and therefore is requesting a waiver from the open space requirements. The requested waiver will not result in any specific, adverse health or safety impact, or impacts to the physical environment.

Minimum Lot Size and Width Waiver. AMC sections 30-4.4 and 30-4.5 require a minimum lot size of 5,000 square feet and minimum lot width of 50 feet. The Tentative Map lots range in size from 1,341 square feet to 15,194 square feet and in width from 34 feet to 100 feet. Lots 1-2, 4-8, 10 and 11 are less than 5,000 square feet in size. Lots 3-9 and 11 are less than 50 feet in width. The proposed lots, however, are largely reflective of existing conditions, including existing fence lines. The applicant requests a waiver of the minimum lot size and width requirements because the requirements would physically preclude the project from developing at the allowed density. The proposed lot sizes are not uncommon in Alameda and will not result in any specific, adverse health or safety impact, or impacts to the physical environment. Further, the proposed lot sizes make it feasible to fit the 31 units on the site.

Staff recommends approval of the Tentative Map and Density Bonus application, including approval of the requested concession/incentive and waivers/reductions, based on the findings for approval.

ALTERNATIVES

The City Council's alternatives include:

1. Approve the Tentative Map and Density Bonus application as recommended by the Planning Board and staff;
2. Modify and approve the entitlements as recommended by the Planning Board and staff;
3. Continue the deliberations until a future date and request additional information necessary for those future deliberations;
4. Remand the applications back to the Planning Board for further analysis on a particular finding in the Resolution; or
5. Deny the requested entitlements.

FINANCIAL IMPACT

There is no financial impact from approving the development entitlements.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

Provision of additional housing and additional affordable housing is consistent with General Plan Housing Element policies to support additional housing development in Alameda, Housing Element policy to support affordable housing, and Housing Element policy to support additional for-sale housing in Alameda. The Tentative Map is also consistent with the General Plan, State Density Bonus Law and the provisions State and Local Subdivision requirements.

ENVIRONMENTAL REVIEW

This project is determined to be Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15332, In-fill Development projects because the project is consistent with the general plan designation policies and zoning designation regulations, the development occurs within city limits on a site of no more than five acres, the site has no value as habitat for endangered, rare or threatened species, the approval would not result in any significant effects on traffic, noise, air quality, or water quality, and the site is adequately served by all required utilities and public services. None of the exceptions in CEQA Guidelines Section 15300.2 apply.

CLIMATE IMPACT

The proposed project is consistent with the City's Climate Action and Resiliency Plan housing policies, which encourages higher-density housing in order to lower greenhouse gas emissions. The proposed project provides important infill housing in an urban area, in proximity to transit, jobs and services, which can reduce greenhouse gas pollution more effectively than housing built in non-urban locations.

RECOMMENDATION

Hold a public hearing and approve a resolution approving the Tentative Map and Density Bonus applications to allow construction of nine townhome dwellings within an existing residential development and to subdivide the existing 1.29-acre property into twelve lots.

CITY MANAGER RECOMMENDATION

Based on my experience Land Use (Housing) decisions for a City Council fit into various categories. A rezoning would be a legislative (discretionary decision) for the City Council. However, the Council's discretion here is significantly limited by the HAA as discussed above. Thus, I recommend that the City Council approve as recommended.

However, if the Council has specific concerns within the narrow range of the discretion on this specific item, you could remand the item back to the Planning Board with specific comments on what you want them to look at within the narrow discretion.

Respectfully submitted,
Andrew Thomas, Planning, Building and Transportation Director

Financial Impact section reviewed,
Annie To, Finance Director

1/27/2021

City of Alameda - File #: 2021-8564

Exhibits:

1. Density Bonus Application
2. Tentative Map (Tract No. 8534)

cc: Eric Levitt, City Manager